

ENROLLMENT(S)

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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-106

"Wastewater System Regulation Amendment Act of 1998"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 12-299, on first and second readings, January 6, 1998 and February 3, 1998, respectively. Following the signature of the Mayor on February 17, 1998, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-284, and published in the March 27, 1998, edition of the D.C. Register (Vol. 45 page 1724) and transmitted to Congress on March 10, 1998 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 12-106, effective May 8, 1998.



LINDA W. CROPP
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

Mar.	10,11,12,13,16,17,18,19,20,23,24,25,26,27,30,31
Apr.	1,21,22,23,24,27,28,29,30
May	1,4,5,6,7

AN ACT

D.C. ACT 12-284

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 17, 1998

*Codification
District of
Columbia
Code
1998 Supp.*

To amend the Wastewater System Regulation Amendment Act of 1985 to update the uniform requirements for discharges into the District of Columbia's wastewater system and to conform the requirements to federal statutes and regulations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Wastewater System Regulation Amendment Act of 1998".

Sec. 2. The Wastewater System Regulation Amendment Act of 1985, effective March 12, 1986 (D.C. Law 6-95; D.C. Code § 6-951 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Code § 6-952) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*);

(2) Paragraph (13) is amended to read as follows:

"(13) "Slug Discharge" or "Slug load" means a discharge capable of violating the specific prohibited discharge provisions of section 7."

(3) A new paragraph (1A) is added to read as follows:

"(1A) "Categorical pretreatment standards" or "Categorical standards" means any regulation promulgated by the Environmental Protection Agency("EPA") which specifies quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial categories."

(4) A new paragraph (1B) is added to read as follows:

"(1B) "CFR" means the Code of Federal Regulations."

(5) A new paragraph (3A) is added to read as follows:

"(20) "Industrial user" means a non-domestic user who discharges, causes, or permits the discharge of wastewater into the District's wastewater system."

(6) A new paragraph (5A) is added to read as follows:

"(5A) "National pretreatment standards", "Pretreatment standards", or

*Section
6-952*

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"Standards" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Clean Water Act. National pretreatment standards, Pretreatment standards, or Standards, also includes the prohibitions in section 7."

(7) A new paragraph (7A) is added to read as follows:

"(7A) "NPDES permit" means the National Pollution Discharge Elimination System permit issued by the EPA to the District for the operation of the Blue Plains Wastewater Treatment Facility in effect on the date of enactment of the Wastewater System Regulation Amendment Act of 1998, and as it may be amended in the future, and any successor permits issued by the EPA to either the District or to WASA."

(8) A new paragraph (7B) is added to read as follows:

"(7B) "Pass through" means any discharge which exits the District's wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes or may cause, or contributes to, a violation of any requirement of the NPDES permit (including an increase in the magnitude of duration of a violation)."

(9) A new paragraph (10A) is added to read as follows:

"(10A) "Pretreatment requirements" means any federal, state or local substantive or procedural requirement related to pretreatment, other than National Pretreatment Standard, imposed on an Industrial User."

(10) A new paragraph (10B) is added to read as follows:

"(10B) "Prohibited Discharge Standards" means any regulation containing prohibitions on pollutant discharges to include such regulations promulgated by the EPA. "Prohibited Discharge Standards" also includes discharges prohibited in section 7."

(11) A new paragraph (14A) is added to read as follows:

"(14A) "WASA" means the District of Columbia Water and Sewer Authority, as established by the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, D.C. Code § 43-1671 *et seq.*)"

(12) A new paragraph (17) is added to read as follows:

"(17) "Wastewater System Regulation Act" means the Wastewater System Regulation Amendment Act of 1985, effective March 12, 1986 (D.C. Law 6-95; D.C. Code § 6-951 *et seq.*)"

(b) Section 7 (D.C. Code § 6-956) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) All users shall comply with the following standards which set forth prohibited discharges:

"(1) General prohibitions. A user shall not introduce into the District's wastewater system any pollutant which causes pass through or interference. This general prohibition applies to any user introducing pollutants into the District's wastewater system whether or not the user is subject to National Pretreatment Standards or national, state or local

**Section
6-956**

pretreatment requirements;

"(2) Specific prohibitions. In addition, the following pollutants shall not be introduced into the District's wastewater system:

"(A) Pollutants which create a fire or explosion hazard in the District's wastewater system, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR Chapter I, Subchapter N, Part 261.21. This prohibition includes any liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to create fire or explosion or to injure in any other way the wastewater system or the process or operation and maintenance of the wastewater system. Prohibited materials under this section include, but are not limited to, gasoline, kerosene, naphtha, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

"(B) Pollutants which have any corrosive property capable of damaging or creating a hazard to structures, equipment, processes and personnel of the District's wastewater system, including, but not limited to, discharges with pH (that is, a base 10 logarithm of the reciprocal of the concentration of hydrogen ions stated in grams per liter) of less than 5, or greater than 10.

"(C) Solid or viscous substances with a specific gravity greater than 2.50, or having any linear dimension greater than 1 inch, or which will or may cause, or contribute to obstruction of the flow in a sewer or otherwise interfere with the operation of the wastewater system including, but not limited to, grease, incompletely shredded garbage, animal remains, blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, spent grains, waste paper, wood, plastic, gas, tar, asphalt residue, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding, or polishing wastes.

"(D) Any pollutant, including oxygen demanding pollutants, released in discharge at a flow rate, or concentration, or a combination of both, which causes interference with the District's wastewater system.

"(E) Any wastewater with heat in such amounts as will inhibit the biological activity of processes in the District's wastewater system resulting in interference. In no case shall wastewater be discharged by a user in temperatures in excess of 140 degrees Fahrenheit or 60 degrees Centigrade, nor shall wastewater be discharged which causes individually or in combination with other wastewater, the influent at the District's wastewater treatment plant to have a temperature exceeding 104 degrees Fahrenheit or 40 degrees Centigrade.

"(F) Any wastewater containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass through or interference.

"(G) Any wastewater containing substances which may solidify or

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become viscous at temperatures above 32 degrees Fahrenheit or 0 degrees Centigrade.

"(H) Any wastewater containing pollutants which result in the presence of toxic, noxious or malodorous liquids, solids or gases, which alone or in interaction with other wastes, are capable of creating a public nuisance or hazard to humans or animals, or are sufficient to inhibit access of District personnel to any part of the District's wastewater system, or cause interference or pass through.

"(I) Any wastewater of objectionable color or tint not removed in the treatment process, including, but not limited to, dye wastes and vegetable tanning wastes.

"(J) Any trucked or hauled pollutants, except at discharge points designated by WASA.";

(2) Subsection (c) is amended to read as follows:

"(c) All users shall comply with the National Pretreatment Standards and any national or local pretreatment requirement. All users shall comply with the National Categorical Pretreatment Standards in 40 CFR Chapter I, Subchapter N, Parts 405 through 471 and any amendments thereto. Should any national standard, requirement, or limitation conflict with a matter regulated by this act or its implementing regulations, the more stringent standard shall govern."

(3) Subsection (f) is amended by striking the phrase, "the Mayor", and inserting the acronym "WASA" in its place;

(4) Subsection (g) is amended by striking the phrase, "the District" and inserting the acronym "WASA" in its place;

(5) Subsection (i) is amended by striking the phrase, "the Mayor" and inserting the acronym "WASA" in its place;

(6) Subsection (j) is amended to read as follows:

"(j) All users shall notify WASA immediately of all discharges whether accidental or intentional, that violate these standards or that could otherwise cause problems in the District's wastewater system, including any slug load or slug discharges as defined in section 3. The notification shall include location of the discharge, type of waste, concentration, and volume, and corrective actions undertaken or to be undertaken by the user. Within 5 days following an accidental discharge, the user shall submit to WASA a detailed written report describing the cause of the discharge and the measures taken or to be taken by the user to prevent similar future occurrences. The notice shall not relieve the user of liability for any expense, loss, or damage which may be incurred or occasioned by damage to the wastewater system, injury to fish, or other damage to persons, property, or the environment caused by the user's act. Compliance with the provisions of this subsection shall not relieve the user of liability for any fines or penalties which may be imposed by this subchapter or other applicable law or regulation. Notices shall be permanently posted on the user's bulletin boards or other prominent places advising employees whom to notify in the event of an accidental discharge. Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency

notification procedures.";

(7) A new subsections (1) and (m) are added to read as follows:

"(l) No user shall discharge pollutants into the District's wastewater system in excess of the limitations established and promulgated by WASA; and

"(m) All users shall notify WASA, the Mayor, the Director of EPA's Region III Waste Management Division, and the appropriate city and state hazardous waste authorities in the jurisdiction in which the discharge emanated, in writing, of any discharge into the District's wastewater system of a substance which, if otherwise disposed of, would be a hazardous waste under applicable federal, state and municipal regulations. Such notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge.

(c) Section 8 (D.C. Code § 6-957) is amended as follows:

Section
6-957

(1) Subsection (a) is amended to read as follows:

"(a) WASA shall administer, implement and enforce the provisions of this subchapter and ensure compliance with this subchapter and with federal laws and regulations governing the issuance of permits for the discharge of wastewater into publicly owned treatment plants, through permits, contracts, orders, or other similar means. In the case of industrial users, WASA shall use permits or equivalent individual control mechanisms issued to each user. These permits, contracts, orders, or other similar means or individual control mechanisms shall comply with all applicable federal laws and regulations. WASA is authorized to set and collect fees and charges as may be necessary or appropriate to recoup costs associated with its responsibilities pursuant to this subchapter and pursuant to federal laws and regulations governing the issuance of permits for the discharge of wastewater into publicly owned treatment plants."; and

(2) Subsection (b) is amended by deleting the phrase, "the Mayor" wherever it appears, and inserting the acronym "WASA" in its place.

(d) Section 9 (D.C. Code § 6-958) is amended to read as follows:

Section
6-958

"In order to determine compliance with this subchapter or any rule issued pursuant to this subchapter, WASA and the Mayor shall have a right to enter upon or through any premises subject to this act at reasonable times for the purpose of inspection, observation, measurement, sampling, and testing. The right to enter and inspect shall include the right to copy records related to compliance with this act. Where a user has security measures in force which would require proper identification and clearance before entry, the user shall make necessary security arrangements so that, upon presentation of suitable identification, the Mayor or WASA will be permitted entry without delay."

(e) Subsection 10(b) (D.C. Code § 6-959(b)) is amended to read as follows:

Section
6-959

"(b) When requested by the user in writing, information and data which might disclose trade secrets or secret processes shall not be made available for public inspection. However, the information and data shall be immediately available to the EPA for any purpose, and to WASA and the District in administrative and judicial review or enforcement proceedings to which the user is a party or in which the user has standing. Additionally, upon written request, WASA and

the District may release such information and data to other government agencies in connection with uses related to this act or to pretreatment programs."

(f) Section 11 (D.C. Code § 6-960) is amended to read as follows:

Section
6-960

"Administrative enforcement.

"(a) Whenever WASA has reason to believe that there is a violation of this act or rules issued pursuant to this act, it may initiate an administrative enforcement action pursuant to this section, and any rules issued pursuant to this act. WASA may initiate this administrative enforcement action in addition to any other enforcement action, civil or criminal, which has or will be undertaken to enforce this act, provided that no user shall be assessed both a civil and administrative penalty for the same violation.

"(b)(1) Whenever WASA has reason to believe that a user is violating this act, or rules issued pursuant to this act, it may issue a Notice of Infraction and Proposed Order. The Notice of Infraction shall include the following:

"(A) The nature, time, and place of the violation (with reasonable specificity);

"(B) The corrective or remedial action to be taken and any fines imposed or other amounts sought in accordance with this act;

"(C) The date upon which the Proposed Order shall become effective; and

"(D) The procedure by which a person may answer a Notice of Infraction and Proposed Order and request a hearing, along with notification that failure to answer may lead to the adoption of some or all of the Proposed Order.

"(2) The Proposed Order may direct the user to do the following:

"(A) Eliminate the violation;

"(B) Comply with the provisions of this act;

"(C) Take specific actions to avoid future violations;

"(D) Pay fines, costs, or other amounts, as authorized by this act; and

"(E) A schedule for completion of any of the directives of the Proposed Order.

"(3) The Proposed Order may provide for the suspension or revocation of any permit issued by the District or WASA pursuant to this act, or the suspension or revocation of any contract or agreement between the user and the District or WASA, to the extent that such permit, contract, or agreement authorizes the person to discharge into the District's wastewater system.

"(4) An answer to a Notice of Infraction and Proposed Order shall be in writing. In that answer a respondent shall admit or deny the allegations included in the Notice of Infraction. Regardless of whether the respondent admits or denies the allegations, the respondent may also assert in the answer that some or all of the terms of the Proposed Order should be modified.

ENROLLED ORIGINAL

"(5) If a respondent, in an answer, denies any of the allegations in the Notice of Infraction, or asks that any term in the Proposed Order be modified, WASA shall conduct a hearing within 30 days of receiving the answer, unless that time period is extended in accordance with any regulations providing for such extensions. The hearing shall be conducted by a hearing examiner, who shall be an attorney regularly employed by WASA or an attorney retained by WASA on a contractual basis. The hearing examiner shall have the power to:

"(A) Preside over hearings in matters arising under this act;

"(B) Determine whether any notice, order, or other document, was properly served upon any party to an enforcement action;

"(C) Compel the attendance of witnesses by subpoena, administer oaths, and take testimony of witnesses under oath;

"(D) Dismiss, rehear, and continue cases;

"(E) Issue orders, including default orders, which require the respondent to provide evidence, submit pleadings, do some or all of the actions described in the Proposed Order, or to pay hearing and inspection costs, and to do any of the foregoing within specific time periods consistent with any regulations issued pursuant to this act or to pay fines or penalties for the failure to do any of the foregoing; and

"(F) Suspend permits or licenses issued pursuant to this act for the purpose of enforcing the payment of monetary fines, penalties, or hearing and inspection costs.

"(c) WASA shall issue regulations which establish a schedule of escalating fines which may be imposed by WASA as part of its effort to enforce this act through administrative action, provided that these fines may not exceed the fines which may be imposed in a civil proceeding brought pursuant to this act. WASA shall also issue regulations to implement this act, including regulations to establish procedures for conducting administrative enforcement actions pursuant to subsection (a) of this section. These regulations shall include, but need not be limited to, procedures and, where applicable, deadlines, for:

"(1) Effecting service of any notice, order or other document produced by a person or issued by WASA pursuant to this subsection, provided however, that WASA shall bear the burden of establishing by a preponderance of the evidence that the Notice of Infraction was not defective, that the Notice of Infraction was properly served, and that an infraction occurred;

"(2) Answering or otherwise responding to any notice, order, or other document issued pursuant to this subsection;

"(3) Holding any hearing conducted pursuant to this subsection, provided however, that hearings shall be conducted in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1501 *et seq.*) Chapter 15 of Title 1; and

"(4) Issuing orders.

"(d) The District of Columbia Board of Appeals and Review ("Board") shall entertain

ENROLLED ORIGINAL

and determine appeals timely filed by WASA or by any person aggrieved by a final order of a hearing examiner issued pursuant to this act. The Board shall make a determination of each appeal on the basis of the record established before the hearing examiner, and may affirm, reverse, or modify the order of the hearing examiner, or may remand the case for further proceedings before the hearing examiner subject to the qualifications set forth in this subsection. The Board shall set aside any hearing examiner order that is unsupported by a preponderance of the evidence on the record. The Board shall also set aside any hearing examiner order that was made without observance of procedure required by law or regulations, except that in such instances, the Board shall apply the rule of harmless error. The Board may not modify a sanction imposed by the hearing examiner if that sanction is within the limits established by law or regulation."

(g) Section 13 (D.C. Code § 6-962) is amended as follows:

**Section
6-962**

(1) Subsection (a) is amended to read as follows:

"(a)(1) In the event of an actual or threatened discharge to the District's wastewater system which, in the sole discretion of WASA, reasonably appears to present an imminent danger to the health or welfare of persons, WASA may, after informal notice to the discharger, suspend water service to any user who is or may be responsible for the discharge as is necessary to avoid or abate the danger. WASA is not required to conduct a hearing before taking such action.

"(2) In the event of an actual or threatened discharge to the District's wastewater system which, in the sole discretion of WASA, reasonably appears to present an imminent danger to the environment or the operation or integrity of the District's wastewater system, WASA may, after providing notice and an opportunity to respond to the user, suspend water service to any user who is or may be responsible for the discharge as is necessary to avoid or abate the danger.

"(3) Any notice or opportunity to respond to which WASA is required under the United States Constitution to provide to a user as a result of any action taken by WASA pursuant to subsection (a)(1) or (a)(2) of this section, is not required to be provided or conducted pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968, Pub. L. 90-614, 82 Stat. 128, D.C. Code § 1-1501 *et seq.*"

(2) Subsection (b) is amended by striking the phrase "the Mayor" and inserting "WASA" in lieu thereof; and

(3) Subsection (c) is amended by striking the phrase "the Mayor" and inserting "WASA" in lieu thereof.

(h) Section 14 (D.C. Code § 6-963) is amended to read as follows:

**Section
6-963**

"(a) A list of the users in significant noncompliance with the Pretreatment Standards and Requirements in the preceding 12 months shall be published annually by WASA in the local daily newspaper with the largest circulation.

"(b) The notification shall summarize the nature of the significant noncompliance and any enforcement action taken against the user during the same 12-month period.

"(c) For the purposes of this section, a user is in significant noncompliance with the

Pretreatment Standards and Requirements if its violation meets one or more of the following criteria:

"(1) Chronic violations of wastewater discharge limits, are violations in which 66% or more of all the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

"(2) Technical Review Criteria ("TRC") violations, are violations in which 33% or more of all the measurements for each pollutant parameter taken during a 6-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for Biochemical Oxygen Demand, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

"(3) Any other violation of pretreatment effluent limits (daily maximum or longer term average) that WASA determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WASA or District personnel or the general public);

"(4) Any violation of the terms of a wastewater discharge permit which remains uncorrected 45 days after notification of the violation is received by the user, or any failure to meet a compliance schedule milestone or enforcement order issued by WASA within 90 days after the scheduled date for achievement of the compliance schedule milestone;

"(5) Failure to provide required reports, such as baseline monitoring reports, periodic self-monitoring reports, and reports on progress with compliance schedules or orders, within 30 days after the due date;

"(6) Failure to timely and accurately report an instance of noncompliance with the Pretreatment Standards and Requirements;

"(7) Any violation which results in WASA exercising its emergency authority pursuant to section 13 of this act; and

"(8) Any violation WASA considers significant in light of the circumstances."

(i) Section 15 is amended (D.C. Code § 6-964) as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Any person who violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be liable for a civil fine not exceeding \$10,000 for each day during which each violation continues, and shall be required to perform any other action needed to correct any harm caused by any violation or to ensure that future violations do not occur. All prosecutions under this provision shall be in the Superior Court of the District of Columbia in the name of the District of Columbia, and shall be instituted by the Corporation Counsel.";

(2) Subsection (b) is amended to read as follows:

"(b) Notwithstanding any other provision of this subchapter, any person who intentionally, willfully, or recklessly violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be punished by a criminal fine not to exceed \$10,000 for each day each violation continues, or imprisonment not to exceed one year for each day each violation

Section
6-964

continues, or both, and to perform any other action needed to correct any harm caused by any violation or to ensure that future violations do not occur. All prosecutions pursuant to this provision shall be in the Superior Court of the District of Columbia.

(j) By adding a new section 16 to read as follows:

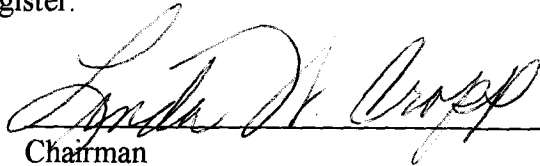
"Sec. 16. The Board of Directors of WASA is authorized to issue regulations consistent with the authority granted to it by this act, in order to implement the provisions of this act."

New Section
6-965

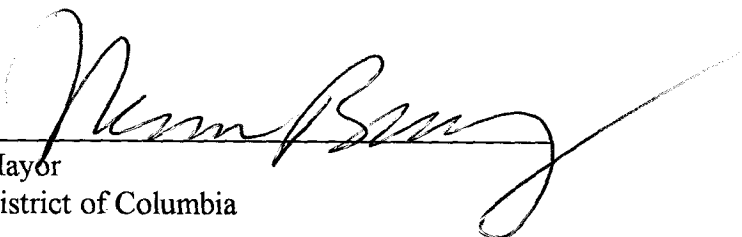
Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: February 17, 1998



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

RECORD OF OFFICIAL COUNCIL VOTE

B12-299

Docket No.

ITEM ON CONSENT CALENDAR

ADOPTED FIRST READING, 1-6-98

ACTION & DATE

APPROVED

VOICE VOTE

RECORDED VOTE ON REQUEST

ALL PRESENT

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Quyle
Secretary to the Council

February 6, 1998
Date

ITEM ON CONSENT CALENDAR

ADOPTED FINAL READING, 2-3-98

ACTION & DATE

APPROVED

VOICE VOTE

RECORDED VOTE ON REQUEST

THOMAS

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

Quyle
Secretary to the Council

February 6, 1998
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
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Brazil					Mason									
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X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date

AN ACT

*Codification
District of
Columbia
Code
1998 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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**Section
6-952**

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ENROLLED ORIGINAL

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"(7A) "NPDES permit" means the National Pollution Discharge Elimination System permit issued by the EPA to the District for the operation of the Blue Plains Wastewater Treatment Facility in effect on the date of enactment of the Wastewater System Regulation Amendment Act of 1998, and as it may be amended in the future, and any successor permits issued by the EPA to either the District or to WASA."

(8) A new paragraph (7B) is added to read as follows:

"(7B) "Pass through" means any discharge which exits the District's wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes or may cause, or contributes to, a violation of any requirement of the NPDES permit (including an increase in the magnitude of duration of a violation)."

(9) A new paragraph (10A) is added to read as follows:

"(10A) "Pretreatment requirements" means any federal, state or local substantive or procedural requirement related to pretreatment, other than National Pretreatment Standard, imposed on an Industrial User."

(10) A new paragraph (10B) is added to read as follows:

"(10B) "Prohibited Discharge Standards" means any regulation containing prohibitions on pollutant discharges to include such regulations promulgated by the EPA. "Prohibited Discharge Standards" also includes discharges prohibited in section 7."

(11) A new paragraph (14A) is added to read as follows:

"(14A) "WASA" means the District of Columbia Water and Sewer Authority, as established by the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, D.C. Code § 43-1671 *et seq.*)".

(12) A new paragraph (17) is added to read as follows:

"(17) "Wastewater System Regulation Act" means the Wastewater System Regulation Amendment Act of 1985, effective March 12, 1986 (D.C. Law 6-95; D.C. Code § 6-951 *et seq.*)".

(b) Section 7 (D.C. Code § 6-956) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) All users shall comply with the following standards which set forth prohibited discharges:

"(1) General prohibitions. A user shall not introduce into the District's wastewater system any pollutant which causes pass through or interference. This general prohibition applies to any user introducing pollutants into the District's wastewater system whether or not the user is subject to National Pretreatment Standards or national, state or local

Section
6-956

pretreatment requirements;

"(2) Specific prohibitions. In addition, the following pollutants shall not be introduced into the District's wastewater system:

"(A) Pollutants which create a fire or explosion hazard in the District's wastewater system, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR Chapter I, Subchapter N, Part 261.21. This prohibition includes any liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to create fire or explosion or to injure in any other way the wastewater system or the process or operation and maintenance of the wastewater system. Prohibited materials under this section include, but are not limited to, gasoline, kerosene, naphtha, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

"(B) Pollutants which have any corrosive property capable of damaging or creating a hazard to structures, equipment, processes and personnel of the District's wastewater system, including, but not limited to, discharges with pH (that is, a base 10 logarithm of the reciprocal of the concentration of hydrogen ions stated in grams per liter) of less than 5, or greater than 10.

"(C) Solid or viscous substances with a specific gravity greater than 2.50, or having any linear dimension greater than 1 inch, or which will or may cause, or contribute to obstruction of the flow in a sewer or otherwise interfere with the operation of the wastewater system including, but not limited to, grease, incompletely shredded garbage, animal remains, blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, spent grains, waste paper, wood, plastic, gas, tar, asphalt residue, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding, or polishing wastes.

"(D) Any pollutant, including oxygen demanding pollutants, released in discharge at a flow rate, or concentration, or a combination of both, which causes interference with the District's wastewater system.

"(E) Any wastewater with heat in such amounts as will inhibit the biological activity of processes in the District's wastewater system resulting in interference. In no case shall wastewater be discharged by a user in temperatures in excess of 140 degrees Fahrenheit or 60 degrees Centigrade, nor shall wastewater be discharged which causes individually or in combination with other wastewater, the influent at the District's wastewater treatment plant to have a temperature exceeding 104 degrees Fahrenheit or 40 degrees Centigrade.

"(F) Any wastewater containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass through or interference.

"(G) Any wastewater containing substances which may solidify or

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become viscous at temperatures above 32 degrees Fahrenheit or 0 degrees Centigrade.

"(H) Any wastewater containing pollutants which result in the presence of toxic, noxious or malodorous liquids, solids or gases, which alone or in interaction with other wastes, are capable of creating a public nuisance or hazard to humans or animals, or are sufficient to inhibit access of District personnel to any part of the District's wastewater system, or cause interference or pass through.

"(I) Any wastewater of objectionable color or tint not removed in the treatment process, including, but not limited to, dye wastes and vegetable tanning wastes.

"(J) Any trucked or hauled pollutants, except at discharge points designated by WASA.";

(2) Subsection (c) is amended to read as follows:

"(c) All users shall comply with the National Pretreatment Standards and any national or local pretreatment requirement. All users shall comply with the National Categorical Pretreatment Standards in 40 CFR Chapter I, Subchapter N, Parts 405 through 471 and any amendments thereto. Should any national standard, requirement, or limitation conflict with a matter regulated by this act or its implementing regulations, the more stringent standard shall govern."

(3) Subsection (f) is amended by striking the phrase, "the Mayor", and inserting the acronym "WASA" in its place;

(4) Subsection (g) is amended by striking the phrase, "the District" and inserting the acronym "WASA" in its place;

(5) Subsection (i) is amended by striking the phrase, "the Mayor" and inserting the acronym "WASA" in its place;

(6) Subsection (j) is amended to read as follows:

"(j) All users shall notify WASA immediately of all discharges whether accidental or intentional, that violate these standards or that could otherwise cause problems in the District's wastewater system, including any slug load or slug discharges as defined in section 3. The notification shall include location of the discharge, type of waste, concentration, and volume, and corrective actions undertaken or to be undertaken by the user. Within 5 days following an accidental discharge, the user shall submit to WASA a detailed written report describing the cause of the discharge and the measures taken or to be taken by the user to prevent similar future occurrences. The notice shall not relieve the user of liability for any expense, loss, or damage which may be incurred or occasioned by damage to the wastewater system, injury to fish, or other damage to persons, property, or the environment caused by the user's act. Compliance with the provisions of this subsection shall not relieve the user of liability for any fines or penalties which may be imposed by this subchapter or other applicable law or regulation. Notices shall be permanently posted on the user's bulletin boards or other prominent places advising employees whom to notify in the event of an accidental discharge. Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency

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notification procedures.";

(7) A new subsections (l) and (m) are added to read as follows:

"(l) No user shall discharge pollutants into the District's wastewater system in excess of the limitations established and promulgated by WASA; and

"(m) All users shall notify WASA, the Mayor, the Director of EPA's Region III Waste Management Division, and the appropriate city and state hazardous waste authorities in the jurisdiction in which the discharge emanated, in writing, of any discharge into the District's wastewater system of a substance which, if otherwise disposed of, would be a hazardous waste under applicable federal, state and municipal regulations. Such notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge.

(c) Section 8 (D.C. Code § 6-957) is amended as follows:

Section
6-957

(1) Subsection (a) is amended to read as follows:

"(a) WASA shall administer, implement and enforce the provisions of this subchapter and ensure compliance with this subchapter and with federal laws and regulations governing the issuance of permits for the discharge of wastewater into publicly owned treatment plants, through permits, contracts, orders, or other similar means. In the case of industrial users, WASA shall use permits or equivalent individual control mechanisms issued to each user. These permits, contracts, orders, or other similar means or individual control mechanisms shall comply with all applicable federal laws and regulations. WASA is authorized to set and collect fees and charges as may be necessary or appropriate to recoup costs associated with its responsibilities pursuant to this subchapter and pursuant to federal laws and regulations governing the issuance of permits for the discharge of wastewater into publicly owned treatment plants."; and

(2) Subsection (b) is amended by deleting the phrase, "the Mayor" wherever it appears, and inserting the acronym "WASA" in its place.

(d) Section 9 (D.C. Code § 6-958) is amended to read as follows:

Section
6-958

"In order to determine compliance with this subchapter or any rule issued pursuant to this subchapter, WASA and the Mayor shall have a right to enter upon or through any premises subject to this act at reasonable times for the purpose of inspection, observation, measurement, sampling, and testing. The right to enter and inspect shall include the right to copy records related to compliance with this act. Where a user has security measures in force which would require proper identification and clearance before entry, the user shall make necessary security arrangements so that, upon presentation of suitable identification, the Mayor or WASA will be permitted entry without delay."

(e) Subsection 10(b) (D.C. Code § 6-959(b)) is amended to read as follows:

Section
6-959

"(b) When requested by the user in writing, information and data which might disclose trade secrets or secret processes shall not be made available for public inspection. However, the information and data shall be immediately available to the EPA for any purpose, and to WASA and the District in administrative and judicial review or enforcement proceedings to which the user is a party or in which the user has standing. Additionally, upon written request, WASA and

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the District may release such information and data to other government agencies in connection with uses related to this act or to pretreatment programs."

(f) Section 11 (D.C. Code § 6-960) is amended to read as follows:

Section
6-960

"Administrative enforcement.

"(a) Whenever WASA has reason to believe that there is a violation of this act or rules issued pursuant to this act, it may initiate an administrative enforcement action pursuant to this section, and any rules issued pursuant to this act. WASA may initiate this administrative enforcement action in addition to any other enforcement action, civil or criminal, which has or will be undertaken to enforce this act, provided that no user shall be assessed both a civil and administrative penalty for the same violation.

"(b)(1) Whenever WASA has reason to believe that a user is violating this act, or rules issued pursuant to this act, it may issue a Notice of Infraction and Proposed Order. The Notice of Infraction shall include the following:

"(A) The nature, time, and place of the violation (with reasonable specificity);

"(B) The corrective or remedial action to be taken and any fines imposed or other amounts sought in accordance with this act;

"(C) The date upon which the Proposed Order shall become effective;

and

"(D) The procedure by which a person may answer a Notice of Infraction and Proposed Order and request a hearing, along with notification that failure to answer may lead to the adoption of some or all of the Proposed Order.

"(2) The Proposed Order may direct the user to do the following:

"(A) Eliminate the violation;

"(B) Comply with the provisions of this act;

"(C) Take specific actions to avoid future violations;

"(D) Pay fines, costs, or other amounts, as authorized by this act; and

"(E) A schedule for completion of any of the directives of the Proposed Order.

"(3) The Proposed Order may provide for the suspension or revocation of any permit issued by the District or WASA pursuant to this act, or the suspension or revocation of any contract or agreement between the user and the District or WASA, to the extent that such permit, contract, or agreement authorizes the person to discharge into the District's wastewater system.

"(4) An answer to a Notice of Infraction and Proposed Order shall be in writing. In that answer a respondent shall admit or deny the allegations included in the Notice of Infraction. Regardless of whether the respondent admits or denies the allegations, the respondent may also assert in the answer that some or all of the terms of the Proposed Order should be modified.

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"(5) If a respondent, in an answer, denies any of the allegations in the Notice of Infraction, or asks that any term in the Proposed Order be modified, WASA shall conduct a hearing within 30 days of receiving the answer, unless that time period is extended in accordance with any regulations providing for such extensions. The hearing shall be conducted by a hearing examiner, who shall be an attorney regularly employed by WASA or an attorney retained by WASA on a contractual basis. The hearing examiner shall have the power to:

"(A) Preside over hearings in matters arising under this act;

"(B) Determine whether any notice, order, or other document, was properly served upon any party to an enforcement action;

"(C) Compel the attendance of witnesses by subpoena, administer oaths, and take testimony of witnesses under oath;

"(D) Dismiss, rehear, and continue cases;

"(E) Issue orders, including default orders, which require the respondent to provide evidence, submit pleadings, do some or all of the actions described in the Proposed Order, or to pay hearing and inspection costs, and to do any of the foregoing within specific time periods consistent with any regulations issued pursuant to this act or to pay fines or penalties for the failure to do any of the foregoing; and

"(F) Suspend permits or licenses issued pursuant to this act for the purpose of enforcing the payment of monetary fines, penalties, or hearing and inspection costs.

"(c) WASA shall issue regulations which establish a schedule of escalating fines which may be imposed by WASA as part of its effort to enforce this act through administrative action, provided that these fines may not exceed the fines which may be imposed in a civil proceeding brought pursuant to this act. WASA shall also issue regulations to implement this act, including regulations to establish procedures for conducting administrative enforcement actions pursuant to subsection (a) of this section. These regulations shall include, but need not be limited to, procedures and, where applicable, deadlines, for:

"(1) Effecting service of any notice, order or other document produced by a person or issued by WASA pursuant to this subsection, provided however, that WASA shall bear the burden of establishing by a preponderance of the evidence that the Notice of Infraction was not defective, that the Notice of Infraction was properly served, and that an infraction occurred;

"(2) Answering or otherwise responding to any notice, order, or other document issued pursuant to this subsection;

"(3) Holding any hearing conducted pursuant to this subsection, provided however, that hearings shall be conducted in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1501 *et seq.*) Chapter 15 of Title 1; and

"(4) Issuing orders.

"(d) The District of Columbia Board of Appeals and Review ("Board") shall entertain

and determine appeals timely filed by WASA or by any person aggrieved by a final order of a hearing examiner issued pursuant to this act. The Board shall make a determination of each appeal on the basis of the record established before the hearing examiner, and may affirm, reverse, or modify the order of the hearing examiner, or may remand the case for further proceedings before the hearing examiner subject to the qualifications set forth in this subsection. The Board shall set aside any hearing examiner order that is unsupported by a preponderance of the evidence on the record. The Board shall also set aside any hearing examiner order that was made without observance of procedure required by law or regulations, except that in such instances, the Board shall apply the rule of harmless error. The Board may not modify a sanction imposed by the hearing examiner if that sanction is within the limits established by law or regulation."

(g) Section 13 (D.C. Code § 6-962) is amended as follows:

Section
6-962

(1) Subsection (a) is amended to read as follows:

"(a)(1) In the event of an actual or threatened discharge to the District's wastewater system which, in the sole discretion of WASA, reasonably appears to present an imminent danger to the health or welfare of persons, WASA may, after informal notice to the discharger, suspend water service to any user who is or may be responsible for the discharge as is necessary to avoid or abate the danger. WASA is not required to conduct a hearing before taking such action.

"(2) In the event of an actual or threatened discharge to the District's wastewater system which, in the sole discretion of WASA, reasonably appears to present an imminent danger to the environment or the operation or integrity of the District's wastewater system, WASA may, after providing notice and an opportunity to respond to the user, suspend water service to any user who is or may be responsible for the discharge as is necessary to avoid or abate the danger.

"(3) Any notice or opportunity to respond to which WASA is required under the United States Constitution to provide to a user as a result of any action taken by WASA pursuant to subsection (a)(1) or (a)(2) of this section, is not required to be provided or conducted pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968, Pub. L. 90-614, 82 Stat. 128, D.C. Code § 1-1501 *et seq.*"

(2) Subsection (b) is amended by striking the phrase "the Mayor" and inserting "WASA" in lieu thereof; and

(3) Subsection (c) is amended by striking the phrase "the Mayor" and inserting "WASA" in lieu thereof.

(h) Section 14 (D.C. Code § 6-963) is amended to read as follows:

Section
6-963

"(a) A list of the users in significant noncompliance with the Pretreatment Standards and Requirements in the preceding 12 months shall be published annually by WASA in the local daily newspaper with the largest circulation.

"(b) The notification shall summarize the nature of the significant noncompliance and any enforcement action taken against the user during the same 12-month period.

"(c) For the purposes of this section, a user is in significant noncompliance with the

Pretreatment Standards and Requirements if its violation meets one or more of the following criteria:

"(1) Chronic violations of wastewater discharge limits, are violations in which 66% or more of all the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

"(2) Technical Review Criteria ("TRC") violations, are violations in which 33% or more of all the measurements for each pollutant parameter taken during a 6-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for Biochemical Oxygen Demand, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

"(3) Any other violation of pretreatment effluent limits (daily maximum or longer term average) that WASA determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WASA or District personnel or the general public);

"(4) Any violation of the terms of a wastewater discharge permit which remains uncorrected 45 days after notification of the violation is received by the user, or any failure to meet a compliance schedule milestone or enforcement order issued by WASA within 90 days after the scheduled date for achievement of the compliance schedule milestone;

"(5) Failure to provide required reports, such as baseline monitoring reports, periodic self-monitoring reports, and reports on progress with compliance schedules or orders, within 30 days after the due date;

"(6) Failure to timely and accurately report an instance of noncompliance with the Pretreatment Standards and Requirements;

"(7) Any violation which results in WASA exercising its emergency authority pursuant to section 13 of this act; and

"(8) Any violation WASA considers significant in light of the circumstances."

(i) Section 15 is amended (D.C. Code § 6-964) as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Any person who violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be liable for a civil fine not exceeding \$10,000 for each day during which each violation continues, and shall be required to perform any other action needed to correct any harm caused by any violation or to ensure that future violations do not occur. All prosecutions under this provision shall be in the Superior Court of the District of Columbia in the name of the District of Columbia, and shall be instituted by the Corporation Counsel.";

(2) Subsection (b) is amended to read as follows:

"(b) Notwithstanding any other provision of this subchapter, any person who intentionally, willfully, or recklessly violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be punished by a criminal fine not to exceed \$10,000 for each day each violation continues, or imprisonment not to exceed one year for each day each violation

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continues, or both, and to perform any other action needed to correct any harm caused by any violation or to ensure that future violations do not occur. All prosecutions pursuant to this provision shall be in the Superior Court of the District of Columbia.

(j) By adding a new section 16 to read as follows:

"Sec. 16. The Board of Directors of WASA is authorized to issue regulations consistent with the authority granted to it by this act, in order to implement the provisions of this act."

New Section
6-965

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia

Mayor
District of Columbia



Docket No. _____

ITEM ON CONSENT CALENDAR

ADOPTED FIRST READING, 1-6-98

ACTION & DATE

APPROVED

VOICE VOTE
 RECORDED VOTE ON REQUEST

ALL PRESENT

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Debra J. Jones
Secretary to the Council

February 6, 1998
Date

ITEM ON CONSENT CALENDAR

ADOPTED FINAL READING, 2-3-98

ACTION & DATE

APPROVED

VOICE VOTE
 RECORDED VOTE ON REQUEST

THOMAS

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Debra J. Jones
Secretary to the Council

February 6, 1998
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE
 RECORDED VOTE ON REQUEST

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date